

5/027/074



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-075884

December 3, 2003

CERTIFIED MAIL #7002 3150 0004 1699 4339
CERTIFIED MAIL #7002 3150 0004 1699 4186
RETURN RECEIPT REQUESTED

DECISION

LARRY MCCURDY	:	43 CFR 3809.116(c)
PRESIDENT	:	DETERMINATION OF
UNIQUE MINERALS INC	:	OPERATOR'S LIABILITY
18458 W. CARTER CIR	:	AND
CEDAR VALLEY UT 84103	:	43 CFR 3809.333
	:	EXPIRATION OF NOTICE
DICK STONE	:	AND REQUIREMENT TO
7458 DEERY ST.	:	COMMENCE RECLAMATION
HARRISBURG PA 17111	:	
	:	
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	:	
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	:	
	:	

Failure to Submit a Financial Guarantee

On January 21, 2003, this office received a request to extend notice UTU-075884, and a request to transfer the operation from Dick Stone to Unique Minerals Inc. There was no reclamation cost estimate included with the requests, so on February 20, 2003, Dick Stone was issued a decision requiring either concurrence with our reclamation cost estimate, or submission of a counter estimate. Mr. Stone failed to respond, so on May 15, 2003, Larry McCurdy was issued another decision requiring either concurrence with our reclamation cost estimate, or submission of a counter estimate. On June 16, 2003, Mr. Stone

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DIV. OF OIL, GAS & MINING

appealed the requirement for a reclamation cost estimate. On June 26, 2003, Mr. McCurdy withdrew the appeal, and promised to submit a financial guarantee within 60 days.

On July 9, 2003, the Utah State Office of the BLM sent a notice to Larry McCurdy allowing 60 days for Unique Minerals to submit a financial guarantee within 60 days. On September 9, 2003, Mr. McCurdy called this office to request another 15 days. The deadline to submit the financial guarantee was extended until October 27, 2003. On that day, Mr. McCurdy came into this office and explained that the financing was almost complete, but that Unique Minerals had not received the funds yet, and would need another 30 days to submit the financial guarantee, so the deadline was extended to November 26, 2003. On November 26, 2003, Dick Stone called this office and explained that the financing had fallen through, and that the financial guarantee would not be submitted within the foreseeable future.

§ 3809.333 requires that, in order to extend a notice that existed as of January 20, 2001, an operator must comply with § 3809.503 and provide a financial guarantee for reclamation. § 3809.116 (c)(2) states that "Transfer of a mining claim or operation does not relieve a mining claimant's or operator's responsibility under this subpart for obligations that accrued or conditions that were created while the mining claimant or operator was responsible for operations conducted on that mining claim or in the project area until...BLM accepts an adequate replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations."

Since Unique Minerals failed to submit the financial guarantee, the notice has expired as of November 26, 2003, and Dick Stone is the operator with the primary reclamation liability. § 3809.335 states that upon expiration of a notice, the operator must promptly commence reclamation. Since the notice was extended, there is no option of deferring reclamation by submitting a new notice or a Plan of Operations. Mr. Stone must begin reclamation within 30 days of receipt of this decision, and complete it within the earliest feasible time. If he fails to do so, we will inform all the claimants for the site during the time the liability accrued of their obligation to conduct the reclamation. If they fail to take appropriate action, we will take enforcement action under §3809.601 against all liable parties.

If you do not agree with, and are adversely affected by, this order, you have the right to request review by the Utah State Director (SD) of the Bureau of Land Management in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement, must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT
UTAH STATE OFFICE
PO BOX 45155
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Fillmore Field Office within 30 days of receipt of this decision. You have the burden of showing that the decision appealed from is in error.

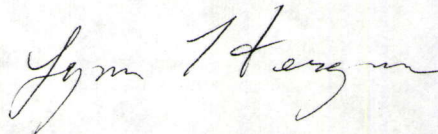
If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.412) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

As mandated in 43 CFR 3809.808 this decision will remain in full force and effect during review and appeal unless a written request for a stay is granted.



ACTING

cc: Tom Munson, UDOGM (S/027/074)

Jason Stone, 7458 Deery St., Harrisburg, PA 17111

Barry Kandel, 1003 Whipoorwill Dr., Clarks Summit, PA 18411-9671

Terry Murray, 2950 Autumn Dr., Eagle Mountain, UT
84043- 3220

Clair Rogers, 13480 S 2200 W, Riverton, UT 84065

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